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October 27, 2005

TO: Selected Local Education Agency Supplemental Educational Services Contacts
Tennessee Approved Supplemental Educational Services Providers

FROM: Sandra Gray, Director of Charter Schools and Choice
Carol Groppe, Consultant, Charter Schools and Choice

RE: Required Criminal Background Checks

VIA U.S. MAIL AND ELECTRONIC MAIL

This memorandum is written to clarify requirements of supplemental educational services (SES) providers to procure criminal background checks pursuant to Tenn. Code Ann. §49-5-413. This statute requires the use of a fingerprint sample and submission to a criminal history records check to be conducted by the Tennessee Bureau of Investigation (TBI). All approved SES providers in Tennessee have signed Assurances, which include the following:

5. *Individuals of the organization having contact with or who are in close proximity to children related to the provision of services will have undergone a criminal background check pursuant to Tenn. Code Ann. §49-5-413.*

Pursuant to TBI guidance, SES providers shall meet this requirement by working with the local education agency (LEA). Procuring criminal background checks, including provisions for payment for these checks, should be included in agreements between SES providers and the LEA, effective immediately. If a provider works with multiple LEAs, this is required for each school district in which services are provided. These checks must be completed for prospective employees listed below prior to their contact with children.

Working in cooperation with the LEA, the SES provider shall forward to the school district the information necessary to obtain criminal fingerprint background checks for tutors, provider-paid site coordinators, and other personnel who come into proximity with school children in the provision of SES services. Please keep in mind that this requirement includes teachers in an LEA who may be hired as an SES tutor. The LEA may use the same procedure for obtaining criminal history records checks that it uses for LEA employees.

The TBI has advised that, pursuant to Federal law, the LEA cannot give the records check information to the SES provider or to the prospective employee of the provider. Therefore, when the LEA receives the results of the records check, the only information that may be shared with the SES provider is whether or not the results of the criminal history records check contains or does not contain information that would preclude this individual from working with students.

If there are any questions regarding information in this correspondence, please contact Carol Groppe at (615) 253-5206 or at carol.groppe@state.tn.us. For questions specific to the law, we encourage you to consult with your legal counsel.

c: Aubrey Bond, Director of NCLB, Memphis; Mary Martin, Director, Federal Programs, Nashville